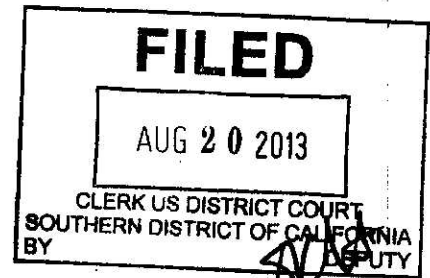


JEFFREY LEE MOURNING
 NAME
1173 FRONT STREET
 PRISON NUMBER
CENTRAL DETENTION FACILITY
 CURRENT ADDRESS OR PLACE OF CONFINEMENT
SAN DIEGO, CA 92101
 CITY, STATE, ZIP CODE



2254	1983
FILING FEE PAID	
Yes	No
IFP MOTION FILED	
Yes	No
COPIES SENT TO	
Court	ProSe

**UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF CALIFORNIA**

JEFFREY LEE MOURNING, PRO SE
 (FULL NAME OF PETITIONER)

PETITIONER

v.

SHERIFF WILLIAM GORE, ET AL.,
 (NAME OF WARDEN, SUPERINTENDENT, JAILOR, OR AUTHORIZED
 PERSON HAVING CUSTODY OF PETITIONER [E.G., DIRECTOR OF THE
 CALIFORNIA DEPARTMENT OF CORRECTIONS])

RESPONDENT

and
ROHANE ZAPANTA, D.P.D., 450
B STREET, SUITE 900, S.D., CA,
 The Attorney General of the State of 92101,
 California, Additional Respondent.
DISTRICT ATTORNEY DUMMANS
Hall of Justice, 330 West Broadway,
San Diego, CA 92101, et al.,

Civil No 13cv1937 BTM WVG
 (TO BE FILLED IN BY CLERK OF U.S. DISTRICT COURT)

PETITION FOR WRIT OF HABEAS CORPUS

UNDER 28 U.S.C. § 2254
 BY A PERSON IN STATE CUSTODY
 W/ REQUEST FOR TEMPORARY
 INJUNCTIVE RELIEF PURSUANT
 TO § 2201 & § 2202, STAYING
 THE TRIAL OF PETITIONER, UNTIL
 THE ISSUES HEREIN ARE RESOLVED.

- Name and location of the court that entered the judgment of conviction under attack: Superior Court of San Diego, 220 W. Broadway, San Diego, CA 92101
- Date of judgment of conviction: NONE AT THIS TIME (SEE GROUNDS FOR RELIEF CONTAINED HEREIN)
- Trial court case number of the judgment of conviction being challenged: CD 249134
- Length of sentence: NONE AT THIS TIME (SEE GROUNDS FOR RELIEF CONTAINED HEREIN)

5. Sentence start date and projected release date: June 24, 2013
6. Offense(s) for which you were convicted or pleaded guilty (all counts): PC 459; PC 475 (A); PC 1203 (E)(4) and PC 667.5 (B)
7. What was your plea? (CHECK ONE)
 (a) Not guilty ☒ (Was offered a 2 year plea agreement which I refused based on my assertion of innocence.)
 (b) Guilty ☐
 (c) Nolo contendere ☐
8. If you pleaded not guilty, what kind of trial did you have? (CHECK ONE)
 (a) Jury ☒ (AM REQUESTING A JURY TRIAL)
 (b) Judge only ☐
9. Did you testify at the trial?
☐ Yes ☐ No N/A @ THIS TIME

DIRECT APPEAL

10. Did you appeal from the judgment of conviction in the **California Court of Appeal**?
☐ Yes ☐ No N/A
11. If you appealed in the **California Court of Appeal**, answer the following:
 (a) Result: - N/A -
 (b) Date of result (if known): " "
 (c) Case number and citation (if known): " "
 (d) Names of Judges participating in case (if known) - N/A -
" "
 (e) Grounds raised on direct appeal: " "
" "
" "
12. If you sought further direct review of the decision on appeal by the **California Supreme Court** (e.g., a Petition for Review), please answer the following:
 (a) Result: - N/A -
 (b) Date of result (if known): " "
 (c) Case number and citation (if known): " "
" "
 (d) Grounds raised: " "
" "
" "

13. If you filed a petition for certiorari in the United States Supreme Court, please answer the following with respect to that petition:

(a) Result: - N/A -
 (b) Date of result (if known): " "
 (c) Case number and citation (if known): " "
" "
 (d) Grounds raised: " "
" "
" "
" "

COLLATERAL REVIEW IN STATE COURT

14. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions (e.g., a Petition for Writ of Habeas Corpus) with respect to this judgment in the California Superior Court?

☒ Yes ☐ No

15. If your answer to #14 was "Yes," give the following information:

(a) California Superior Court Case Number (if known): CD 249134
 (b) Nature of proceeding: Order To Show Cause requesting a Marsden Hearing. A Motion to Proceed Pro Per
 (c) Grounds raised: Ineffectiveness of Defense Counsel, setting forth counsel's neglect, gross-negligence, deceit & lies, and lack of effectiveness, & desire for appointment of counsel independent of the San Diego Public Defenders Office, & That Public Defender arbitrarily injected themselves into my case when I refused to sign their Standard Form requesting the (below)
 (d) Did you receive an evidentiary hearing on your petition, application or motion?
☐ Yes ☒ No Ineffective Defense Counsel attempted to proceed on my Motion *
 (e) Result: Court refused to hear my "Marsden" motion and wanted me to **
 (f) Date of result (if known): 08-15-13

16. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions (e.g., a Petition for Writ of Habeas Corpus) with respect to this judgment in the California Court of Appeal?

☐ Yes ☒ No

* appointment of counsel because I am not indigent and could obtain counsel of my choice with funds off my Commerce Bank Debit Card in possession of Respondent Sheriff William Gore.

** Proceed with Pro Per Motion first which would have acted to moot out the "Marsden" Motion & relief requested therein.

17. If your answer to #16 was "Yes," give the following information:

- (a) **California Court of Appeal** Case Number (if known): "N/A"
- (b) Nature of proceeding: " "
- (c) Names of Judges participating in case (if known) " "
- (d) Grounds raised: When I called the Appellate Division concerning my want to appeal or file a Petition for Writ of Habeas Corpus; they refused my request and hung the phone up on me.
- (e) Did you receive an evidentiary hearing on your petition, application or motion?
☐ Yes ☒ No
- (f) Result: "08.15.13"
- (g) Date of result (if known): "08.15.13"

18. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions (e.g., a Petition for Writ of Habeas Corpus) with respect to this judgment in the **California Supreme Court**?

☐ Yes ☒ No

19. If your answer to #18 was "Yes," give the following information:

- (a) **California Supreme Court** Case Number (if known): "N/A"
- (b) Nature of proceeding: " "
- (c) Grounds raised: Could not because the Appellate Court listed in 17 above refused to represent me or pursue any appeal, motion or petition filed by me. Thus, blocking my ability to exhaust by their refusal that is acting to hinder, chill, impede, obstruct, delay or free access to any Appellate Review
- (d) Did you receive an evidentiary hearing on your petition, application or motion?
☐ Yes ☒ No
- (e) Result: The Appellate Attorneys refused to represent me or allow me to file anything in this respect and actually hung up the phone on me. 08.15.13.
- (f) Date of result (if known): 08.15.13.

20. If you did *not* file a petition, application or motion (e.g., a Petition for Review or a Petition for Writ of Habeas Corpus) with the California Supreme Court containing the grounds raised in this federal Petition, explain briefly why you did not:

Because the Intermediate Appellate Section Attorneys refused to allow me to file any motion, petition, writ, or other pleading until I was convicted, and because Respondent William Gore, Sheriff, refuses to allow me to use the Law Library, make copies, or to access my Commerce Bank Debit Card to retain counsel of my choice or funds to purchase heed paper and monies for photo copying until I am granted proper
COLLATERAL REVIEW IN FEDERAL COURT *status by the Superior Court.*

21. Is this your **first** federal petition for writ of habeas corpus challenging this conviction?

☒ Yes ☐ No (If "YES" SKIP TO #22)

(a) If no, in what federal court was the prior action filed? _____

(i) What was the prior case number? _____

(ii) Was the prior action (CHECK ONE):

☐ Denied on the merits?

☐ Dismissed for procedural reasons?

(iii) Date of decision: _____

(b) Were any of the issues in this current petition also raised in the prior federal petition?

☐ Yes ☐ No

(c) If the prior case was denied on the merits, has the Ninth Circuit Court of Appeals given you permission to file this second or successive petition?

☐ Yes ☐ No

CAUTION:

- **Exhaustion of State Court Remedies:** In order to proceed in federal court you must ordinarily first exhaust your state court remedies as to each ground on which you request action by the federal court. This means that even if you have exhausted some grounds by raising them before the California Supreme Court, you must first present *all* other grounds to the California Supreme Court before raising them in your federal Petition.
- **Single Petition:** If you fail to set forth all grounds in this Petition challenging a specific judgment, you may be barred from presenting additional grounds challenging the same judgment at a later date. - *Understood* -
- **Factual Specificity:** You must state facts, not conclusions, in support of your grounds. For example, if you are claiming incompetence of counsel you must state facts specifically setting forth what your attorney did or failed to do. A rule of thumb to follow is — state who did exactly what to violate your federal constitutional rights at what time or place.

And because I have no family or friends to pick-up my Bank Card to access it for me.

GROUND FOR RELIEF

22. State *concisely* every ground on which you claim that you are being held in violation of the constitution, law or treaties of the United States. Summarize *briefly* the facts supporting each ground. (e.g. what happened during the state proceedings that you contend resulted in a violation of the constitution, law or treaties of the United States.) If necessary, you may attach pages stating additional grounds and/or facts supporting each ground.

(a) **GROUND ONE:** ~~THE STATE COURT IMPROPERLY APPOINTED THE PUBLIC DEFENDER'S OFFICE TO REPRESENT ME WHEN I SPECIFICALLY REFUSED TO SIGN THE REQUIRED STANDARD FORM REQUESTING TO OBTAIN COUNSEL OF MY CHOICE AND ACKNOWLEDGING TO THE COURT I WAS NOT, IN FACT, INDIGENT AND DIDN'T QUALIFY FOR FREE REPRESENTATION AT PUBLIC EXPENSE.~~

Supporting FACTS:

On or about 06.27.13 at my initial Bail Hearing a Representative who identified themselves as an employee of the Public Defender's Office ask me to sign their required Standard Form for my Request for Public Defender representation at public expense. I refused to sign because I did not qualify as indigent because I have a monthly income and had sufficient funds to hire counsel of my own choosing. Notwithstanding that declaration on non-indigency - the Court appointed the Office of the Public Defender of San Diego County to represent me. Respondent William Gore, Sheriff, has at all times refused to allow me access to my Commerical Bank Debt Card to obtain funds out of my own Bank Account to hire counsel of my choosing, or to purchase a telephone card here at the Central Jail to call outside prospective attorneys to represent me, merely because I have no family, relatives, or friends to come to the jail to get my personal Bank Debit Card, thereby impeding, chilling, obstructing, and blocking my ability to retain counsel of my choosing. In addition, Respondent William Gore and his staff refuse me access to the Law Library to obtain telephone numbers of potential Attorneys, or copies of any legal pleading without first being granted pro persona status, in violation of my protected constitutional rights under the 1st, 6th & 14th Amendments. Thus, both the Court and Respondent Sheriff William Gore is forcing

Did you raise **GROUND ONE** in the California Supreme Court?

☐ Yes ☒ No.

If yes, answer the following:

- (1) Nature of proceeding (i.e., petition for review, habeas petition): _____
- (2) Case number or citation: _____
- (3) Result (attach a copy of the court's opinion or order if available): _____

me to proceed with ineffective and incompetent counsel or to hear my claims against my incompetent counsel at a Marsden hearing, unless I first proceed on a Motion to represent myself which I do not want to do, and my incompetent counsel-6 will not raise her own ineffectiveness or incompetence.

- (b) **GROUND TWO:** Respondent Sheriff William Gore is holding me in EX COMMUNICATION FROM GAINING ACCESS TO FUNDS OF MY OWN COMMERICA BANK DEBIT CARD TO OBTAIN FUNDS TO PURCHASE A TELEPHONE CARD TO CONTACT POTENTIAL ATTORNEY REPRESENTATION OF MY CHOICE, OR ALLOW ME ANY ACCESS TO THE LAW LIBRARY TO OBTAIN ADDRESSES OF ATTORNEY(S) OR COPY ANY OF MY LEGAL PAPERS UNTIL I AM GRANTED PRO-PERSONA STATUS BY THE SUPERIOR COURT, IN VIOLATION OF MY RIGHTS.

Respondent, Sheriff William Gore, is arbitrarily and capriciously withholding my own Commerica Bank Debit Card that is in my personal property here at the Central Detention Facility from me, simply because I have no family or friends to pick my personal Bank Card up and access said Bank Card for me. He is additionally refusing me access to the Law Library because I am not granted pro-persona status by the Superior Court, which action by the respondent is denying me access to new address(es) of potential Attorney(s) I may choose to hire to represent me. Even though Sheriff Gore is aware I have funds to purchase phone-time and pay for an attorney of my choosing - he refuses me access to my own property with his old bus policy to do so. Thus, I am being denied my right to contact outside attorneys of my choosing. My own appointed incompetent Public Defender refuses to access my Bank Card and such is violating my right not to have ineffective and incompetent counsel representation.

The Social Services Department here at the jail, acting on Respondent Gore's instructions, refuses to assist me to access my own Bank Card or to release it to me, and is effectively forcing me to have to be compelled to proceed as an indigent with incompetent and ineffective Counsel at Public expense.

Respondent has reduced my ability to prepare and execute any legal pleadings to the point I am unable to use the Law Library, unable to purchase legal writing paper or purchase stamps or envelopes with my own money in my own Bank Account on my Commerica Bank Debit Card, and am forced to use golf pencils and scratch points on said golf pencils by scratching the pencil leads to a point on the concrete floor.

Did you raise GROUND TWO in the California Supreme Court?

☐ Yes ☒ No.

If yes, answer the following:

- (1) Nature of proceeding (i.e., petition for review, habeas petition): _____
- (2) Case number or citation: _____
- (3) Result (attach a copy of the court's opinion or order if available): _____

- (c) **GROUND THREE:** THE SUPERIOR COURT JUDGE ERRED IN REFUSING TO HEAR MY MARSDEN PETITION, REQUESTING APPOINTED COUNSEL OUTSIDE AND INDEPENDENT OF THE SAN DIEGO PUBLIC DEFENDER'S OFFICE, UNLESS I AGREED TO PROCEED FIRST ON MY MOTION TO PROCEED PRO PER.

Supporting FACTS:

On 08.15.13 at my "Readiness Hearing" prior to my scheduled Preliminary Hearing on 08.22.13 the Judge refused to hear my Marsden Petition unless I first agreed to be heard on my Motion to Proceed Pro Per. I should not have been placed in such a position, simply because in my Marsden Petition I was requesting the appointment of counsel outside and independent of the incompetent and ineffective Office of the San Diego Public Defender. Had I proceeded on the Proper Person Motion first, it not only would have acted to moot-out my Marsden Petition setting forth the egregious errors by the Court and incompetence, gross-negligence, neglect and ineffectiveness of Defense Counsel, I may have been forced to represent myself if the Court then refused to allow me to retract my request to proceed pro se. The Court should have allowed me to proceed on the Marsden Motion first.

My incompetent and ineffective defense attorney sought to proceed on my pro per motion in her attempt to conceal her own incompetence and ineffectiveness, or lack of readiness on the record; knowing to so proceed would have acted to moot-out the Marsden issues leaving her unaccountable.

Did you raise GROUND THREE in the California Supreme Court?

☐ Yes ☐ No.

If yes, answer the following:

- (1) Nature of proceeding (i.e., petition for review, habeas petition): _____
- (2) Case number or citation: _____
- (3) Result (attach a copy of the court's opinion or order if available): _____

- (d) **GROUND FOUR:** PETITIONER HAS NO ADEQUATE REMEDY AT LAW TO BE HEARD AT A FULL AND FAIR HEARING ON HIS MARSDEN PETITION TO SET FORTH HIS ATTORNEY'S INCOMPETENCE, NEGLIGENCE, GROSS NEGLIGENCE, AND INEFFECTIVENESS TO ENABLE HIM TO ESTABLISH A RECORD TO APPEAL TO THE STATE APPELLATE OR SUPREME COURT, BECAUSE THE TRIAL COURT REFUSES TO HEAR HIS MARSDEN PETITION, AND UNLESS THIS COURT ACTS TO PROTECT PETITIONER'S RIGHTS THOSE ISSUES WILL BE LOST AND HE WILL BE FORCED TO HAVE INCOMPETENT COUNSEL, OR REPRESENT HIMSELF.

The Petitioner does not seek to represent himself unless as a last resort. Here, the Court refuses to entertain and hear my Marsden Petition unless I first agree to be heard on a Pro Per Motion, which is improper. In the State Court Marsden Petition and Motion I clearly request relief of appointment of counsel independent and outside the Public Defender's Office merely because I am being forced to do so, since Respondents are refusing me access to the funds on my own private Bank Card that would allow me to purchase a telephone card to contact attorneys of my choosing, or access to the Law Library to obtain phone numbers of other attorneys of my choice, or to obtain legal copies without first being granted pro per status. Thus, I am being denied access to the courts, to contact attorneys of my own choosing, and to proceed with ineffective, incompetent counsel at Public expense, when the Respondents are fully aware I am not indigent and that they are improperly forcing me to proceed as a poor person with no ability to afford my own attorney. Therefore, petitioner asserts that Respondents should be required to answer this petition, and that the trial proceedings in the State Court be stayed pending a Marsden Hearing on the record either in State Court, or, in the alternative, in this United States District Court to provide petitioner a means of preserving these issues for direct State Appeal in the interests of justice and fundamental fairness.

Did you raise GROUND FOUR in the California Supreme Court?

☐ Yes ☒ No. (Respondents are preventing me from establishing a record to appeal.)

If yes, answer the following:

- (1) Nature of proceeding (i.e., petition for review, habeas petition): _____
- (2) Case number or citation: _____
- (3) Result (attach a copy of the court's opinion or order if available): _____

23. Do you have any petition or appeal **now pending** in any court, either state or federal, pertaining to the judgment under attack?

☐ Yes ☒ No (Only Case # CD249134) w/ a Marsden Petition & Show Cause Request that the Court refuses to hear).

24. If your answer to #23 is "Yes," give the following information:

(a) Name of Court: Superior Court, Courtroom #30

(b) Case Number: CD249134

(c) Date action filed: Approx. 07-27-13

(d) Nature of proceeding: Petition for Order To Show Cause & Petition for Marsden hearing

(e) Name(s) of judges (if known): The Honorable Dwayne K. Moring, J.S.C.

(f) Grounds raised: Petitioner never requested or signed for the appointment of counsel, Petitioner was/is not indigent and could afford his own Attorney if Respondents would stop blocking his access to his funds, incompetent, neglectful, grossly - negligent, and ineffective counsel, denial of counsel of my choosing.

(g) Did you receive an evidentiary hearing on your petition, application or motion?
☐ Yes ☒ No

25. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(a) At preliminary hearing: Robanex Zapanta, D.P.D, 450 B. Street, Suite 900, San Diego, CA 92101

(b) At arraignment and plea: "She has not represent me in anything, other the plea at arraignment).

(c) At trial: _____

(d) At sentencing: _____

(e) On appeal: _____

(f) In any post-conviction proceeding: _____

(g) On appeal from any adverse ruling in a post-conviction proceeding: _____

26. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time?
☐ Yes ☒ No

27. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?
☐ Yes ☒ No

(a) If so, give name and location of court that imposed sentence to be served in the future:

(b) Give date and length of the future sentence: _____

- (c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

☒ Yes ☐ No

(Contemplated providing, in all fairness, the Respondents permit me to establish a record.)

28. Consent to Magistrate Judge Jurisdiction

In order to insure the just, speedy and inexpensive determination of Section 2254 habeas cases filed in this district, the parties may waive their right to proceed before a district judge and consent to magistrate judge jurisdiction. Upon consent of all the parties under 28 U.S.C. § 636(c) to such jurisdiction, the magistrate judge will The parties are free to withhold consent without adverse substantive consequences.

The Court encourages parties to consent to a magistrate judge as it will likely result in an earlier resolution of this matter. If you request that a district judge be designated to decide dispositive matters, a magistrate judge will nevertheless hear and decide all non-dispositive matters and will hear and issue a recommendation to the district judge as to all dispositive matters.

You may consent to have a magistrate judge conduct any and all further proceedings in this case, including the entry of final judgment, by indicating your consent below.

Choose only one of the following:

☒ Plaintiff consents to magistrate judge jurisdiction as set forth above.

OR

☐ Plaintiff requests that a district judge be designated to decide dispositive matters and trial in this case.

29. Date you are mailing (or handing to a correctional officer) this Petition to this court: 08-17-13

Wherefore, Petitioner prays that the Court grant Petitioner relief to which he may be entitled in this proceeding.

Jeffrey Lee Mourning

SIGNATURE OF ATTORNEY (IF ANY)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

August 17, 2013

(DATE)

Jeffrey Lee Mourning

SIGNATURE OF PETITIONER

30. Petitioner hereby incorporates, with reference thereto, the State Court Marsden issues as if more fully set forth at length. Thus, Grounds I, II, III, and IV are set forth and included herein. A copy of which is with the Court and my only original. Respondents would not
31. Petition raises Ground V into this Petition:

V

Although Petitioner is not Indigent The Respondents Refuse To Allow Him Access To Funds To Pay The Filing Fee From Him Commerica Bank Debit Card, And Petitioner Has No Family Or Friends To Do This For Him. Pay The \$5.00 FEE FOR FILING TO THIS COURT

Petitioner asserts he is being denied access to the Courts by the Respondents actions, inactions, practices, and policies. Since the Respondent(s) are forcing me to be indigent by denying me access to my own Commerica Bank Debit Card, I am requesting this Court Order Respondent's to pay for all costs of this action, including the \$5.00. filing fee. But for Respondent's actions I would be able to pay and they are preventing me from doing so.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on:

August 17, 2013

Jeffrey Lee Mourning

copy the Marsden Petition for me, but did copy said Petition for themselves.

August 12, 2013

Dear Clerk:

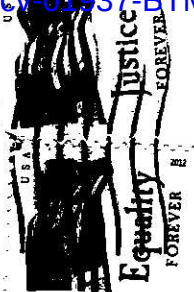
This is the only available copy of this Petition as explained therein, since Respondent's refuse to make any legal copies for me because I have not been granted the right by the Superior Court to represent myself.

~~Further, as explained herein,~~ I am not indigent but respondent's refuse to allow me or provide a means to allow me to extract funds of my Bank Visa Debit Card, so I am unable to pay the \$5.00 fee, and I have ~~no one~~ family, relative living, or friend to do this for me.

Kindly please accept this for filing.

Respectfully,
Jeffrey L. Mourning

Jeffrey Mourniny, 13743885
1173 Front Street
San Diego, CA 92101

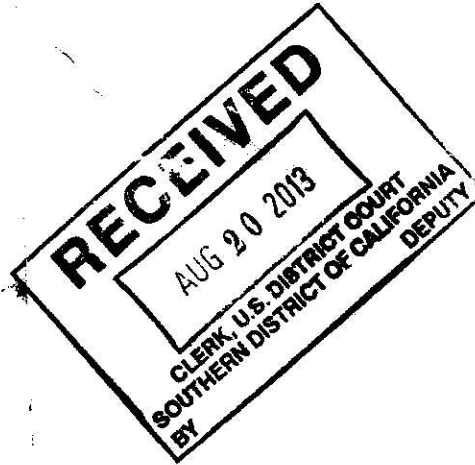


Clerk of the Court
U.S. District Court
333 West Broadway, Suite 420
San Diego, CA 92101

LEGAL MAIL

9210133806





CD 6-98

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Jeffrey Lee Mourning
13743885

(b) County of Residence of First Listed Plaintiff San Diego

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Jeffrey Lee Mourning
1173 Front St.
San Diego CA 92101

DEFENDANTS

Sheriff William Gore, et al

County of Residence of First Listed Defendant _____

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

13cv1937 BTM WVG

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

- | | | | | | |
|---|--|--|--|---|--|
| <input type="checkbox"/> 110 Insurance
<input type="checkbox"/> 120 Marine
<input type="checkbox"/> 130 Miller Act
<input type="checkbox"/> 140 Negotiable Instrument
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment
<input type="checkbox"/> 151 Medicare Act
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits
<input type="checkbox"/> 160 Stockholders' Suits
<input type="checkbox"/> 190 Other Contract
<input type="checkbox"/> 195 Contract Product Liability
<input type="checkbox"/> 196 Franchise | PERSONAL INJURY
<input type="checkbox"/> 310 Airplane
<input type="checkbox"/> 315 Airplane Product Liability
<input type="checkbox"/> 320 Assault, Libel & Slander
<input type="checkbox"/> 330 Federal Employers' Liability
<input type="checkbox"/> 340 Marine
<input type="checkbox"/> 345 Marine Product Liability
<input type="checkbox"/> 350 Motor Vehicle
<input type="checkbox"/> 355 Motor Vehicle Product Liability
<input type="checkbox"/> 360 Other Personal Injury
<input type="checkbox"/> 362 Personal Injury - Medical Malpractice | PERSONAL INJURY
<input type="checkbox"/> 365 Personal Injury - Product Liability
<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability
<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability
PERSONAL PROPERTY
<input type="checkbox"/> 370 Other Fraud
<input type="checkbox"/> 371 Truth in Lending
<input type="checkbox"/> 380 Other Personal Property Damage
<input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881
<input type="checkbox"/> 690 Other | <input type="checkbox"/> 422 Appeal 28 USC 158
<input type="checkbox"/> 423 Withdrawal 28 USC 157
<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 840 Trademark | <input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 896 Arbitration
<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision |
| <input type="checkbox"/> 210 Land Condemnation
<input type="checkbox"/> 220 Foreclosure
<input type="checkbox"/> 230 Rent Lease & Ejectment
<input type="checkbox"/> 240 Torts to Land
<input type="checkbox"/> 245 Tort Product Liability
<input type="checkbox"/> 290 All Other Real Property | <input type="checkbox"/> 440 Other Civil Rights
<input type="checkbox"/> 441 Voting
<input type="checkbox"/> 442 Employment
<input type="checkbox"/> 443 Housing/Accommodations
<input type="checkbox"/> 445 Amer. w/Disabilities - Employment
<input type="checkbox"/> 446 Amer. w/Disabilities - Other
<input type="checkbox"/> 448 Education | Habeas Corpus:
<input type="checkbox"/> 463 Alien Detainee
<input type="checkbox"/> 510 Motions to Vacate Sentence
<input type="checkbox"/> 530 General
<input type="checkbox"/> 535 Death Penalty
Other:
<input type="checkbox"/> 540 Mandamus & Other
<input checked="" type="checkbox"/> 550 Civil Rights
<input type="checkbox"/> 555 Prison Condition
<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement | <input type="checkbox"/> 710 Fair Labor Standards Act
<input type="checkbox"/> 720 Labor/Management Relations
<input type="checkbox"/> 740 Railway Labor Act
<input type="checkbox"/> 751 Family and Medical Leave Act
<input type="checkbox"/> 790 Other Labor Litigation
<input type="checkbox"/> 791 Employee Retirement Income Security Act | <input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 863 DIWC/DIWW (405(g))
<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 865 RSI (405(g)) | <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
<input type="checkbox"/> 950 Constitutionality of State Statutes |

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28:2254

Brief description of cause:

Petition for Writ of Habeas Corpus

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

08/20/2013

SIGNATURE OF ATTORNEY OF RECORD

s/ SKHoestenbach

FOR OFFICE USE ONLY

RECEIPT # _____

AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____